

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF WASHINGTON
AT TACOMA

JAMES LEE McPHADEN,

Plaintiff,

v.

JEFFERY S. THOMASON,

Defendant.

Case No. MS07-5003 FDB

ORDER DENYING MOTION FOR
RECONSIDERATION


Plaintiff moves for reconsideration of this Courts Order of Dismissal. On May 23, 2007, the Court dismissed Plaintiff's "Criminal Complaint" against the above captioned defendant on the basis that a private citizen cannot prosecute a criminal complaint. See, Rockefeller v. U.S. Court of Appeals for the Tenth Circuit, 248 F. Supp. 2d 17, 22 (D.D.C. 2003).

Plaintiff's motion for reconsideration asserts that he is entitled to maintain this action pursuant to the False Claims Act as a *qui tam* claim. Plaintiff's assertion is without merit. Plaintiff's "Criminal Complaint" fails to state a claim because Defendant never made a "claim" against the United States government within the meaning of the False Claims Act. See, United States ex rel. Aflatooni v. Kitsap Physicians Serv., 314 F.3d 995, 1000 (9th Cir.2002) (listing required elements of

1 claim). A “claim” under the FCA is a request or demand for money or property upon the
2 government. See, 31 U.S.C. § 3729.

3 Accordingly, Plaintiff’s Motion for Reconsideration [Dkt #7] is DENIED.

4 DATED this 22nd day of June, 2007.

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7 FRANKLIN D. BURGESS
8 UNITED STATES DISTRICT JUDGE
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